

**IN THE COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE**

**ORDER AMENDING RULE 72.2
OF THE COURT OF COMMON PLEAS
RULES OF CIVIL PROCEDURE**

This 18th day of March 2010, IT IS ORDERED that:

- 1) Court of Common Pleas Civil Rule 72.2 is amended by deleting the language in brackets and adding the language as underlined:

Rule 72.2. Expedited Procedure for Appeals on the Record.

(a) *Application of rule.* This rule shall apply to appeals to the Court of Common Pleas from [the Department of Public Safety] certain commissions, boards, agencies and courts from which an appeal may at any time lie to the Court of Common Pleas to be tried or heard on the record below.

(b) *Motion to affirm.* Within 10 days after receipt of appellant's opening brief, appellee may, in lieu of a brief, serve and file a motion to affirm the order, award, determination, or decree or part thereof appealed from. The filing of the motion tolls the time for filing of appellee's brief. The sole ground for such motion shall be that it is manifest on the face of appellant's brief that the appeal is without merit because:

(1) The issue on appeal is clearly controlled by settled Delaware law;

[(2) Omitted.]

[(3)] (2) The issue on appeal is factual, and clearly there is substantial evidence to support the findings of fact below; or

[(4)] (3) The issue on appeal is one of judicial or administrative discretion, and clearly there was no abuse of discretion. The motion to affirm shall state the ground or grounds on which it is based together with citation of authorities and record references to evidence relied upon. It shall not be a brief and shall not contain argument. There shall be no briefing, argument or response to the motion unless requested by the Court. If the motion to affirm shall be granted by the Court, an order or opinion will be entered affirming the order, award, determination, or decree or part thereof appealed from. If the motion shall be denied, the appellee's brief will be due within 20 days after such denial,

and the appeal will proceed through briefing, oral argument and disposition as provided in these Rules.

(c) *Affirmance sua sponte*. After filing of the appellant's opening brief, the Court may, sua sponte, enter an order, award, determination, or decree or part thereof appealed from for the reason that it is manifest on the face of the appellant's opening brief that the appeal is without merit because:

(1) The issue on appeal is clearly controlled by settled Delaware law;


[(2) Omitted.]

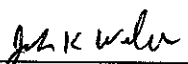
[(3)] (2) The issue on appeal is factual, and clearly there is substantial evidence to support the findings of fact below; or

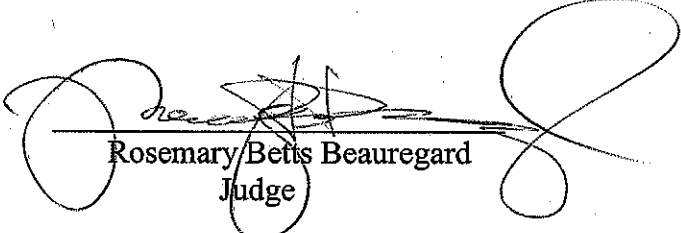
[(4)] (3) The issue on appeal is one of judicial or administrative discretion, and clearly there was no abuse of discretion.

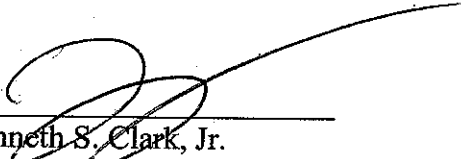
(d) *Expedited scheduling*. Upon motion for good cause shown or upon the Court's order sua sponte, the Court may order an expedited schedule of any or all procedures, including a shortened time for the filing of briefs and other papers, in any appeal or other proceeding.

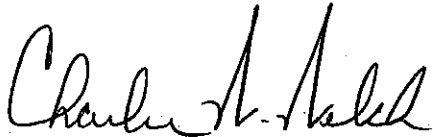
This rule shall become effective April 30, 2010.



Alex J. Smalls,
Chief Judge

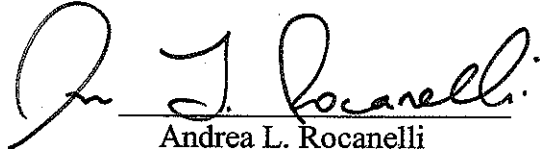

John K. Welch
Judge



Rosemary Betts Beauregard
Judge


Kenneth S. Clark, Jr.
Judge


Charles W. Welch, III
Judge


Joseph F. Flickinger, III
Judge


Andrea L. Rocanelli
Judge


Anne Hartnett Reigle
Judge